

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
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2005 FEB 28 P 3:07

UNITED STATES OF AMERICA,)
Plaintiff,)

v.)

05 CV 10192 RWZ

U.S. DISTRICT COURT
DISTRICT OF MASS.

ONE STAR CLASS SLOOP SAILBOAT)
BUILT IN 1930 WITH HULL)
NUMBER 721, NAMED "FLASH II,")
Defendant.)

ANSWER BY CLAIMANT HARRY E. CROSBY

Now comes claimant, Harry E. Crosby, and answers the government's verified complaint for forfeiture in rem.

1. The claimant admits to the allegations contained in paragraph 1 of the complaint.
2. The claimant admits to the allegations contained in paragraph 2 of the complaint.
3. The claimant admits to the allegations contained in paragraph 3 of the complaint.
4. The claimant denies the allegations contained in paragraph 4 of the complaint.
5. The claimant denies the allegations contained in paragraph 5 of the complaint.

Affirmative Defenses:

1. The government has failed to state a claim upon which relief can be granted. Specifically, in violation of 21 U.S.C. § 881(d) and 19 U.S.C. § 1615, the government has failed to establish probable cause to file a § 881 forfeiture

- complaint. The government cannot comply with 18 U.S.C. § 983(c) and establish by a preponderance of the evidence that the property is subject to forfeiture.
2. The government's forfeiture complaint is time barred pursuant to 28 U.S.C. § 2462 and 19 U.S.C. § 1621.
 3. The government, in an affidavit by DEA S/A Gregg A. Willoughby which is referenced in paragraph 4 of the government's verified complaint for forfeiture in rem, alleged false facts from an unidentified informant to support its probable cause allegation.
 4. Claimant Crosby is an innocent owner pursuant to 18 U.S.C. § 983(d).

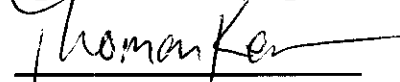
WHEREFORE, the claimant respectfully requests that judgment be entered for the claimant denying the relief sought by the plaintiff. The defendant vessel should be awarded to the claimant.

Jury Trial Demand:

The claimant demands trial by jury on all issues so triable.

Respectfully Submitted,
HARRY E. CROSBY,

By his attorney:



J. THOMAS KERNER
Mass. BBO # 552373
Attorney at Law
230 Commercial Street
First Floor
Boston, MA 02109
(617) 720-5509

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CERTIFICATE OF SERVICE

Now comes counsel for claimant Harry Crosby and certifies
that a copy of the attached filing has been served on the United
States by sending a copy to:

Ms. Shelbey D. Wright
Assistant U.S. Attorney
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

Date 2/24/05

Respectfully Submitted

HARRY E. CROSBY

By his attorney:



J. Thomas Kerner

MA BBO # 552373

Attorney at Law

230 Commercial Street

First Floor

Boston, MA 02109

(617) 720-5509